

CHAPTER 120

DEFINITIONS; GENERAL PROVISIONS

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120.0751 STATE BOARD OF EDUCATION; ENROLLMENT EXCEPTIONS.

[For text of subs 1 and 2, see M.S.1982]

Subd. 3. **Criteria for approval.** In approving or disapproving the application the state board shall consider the following:

(a) if the circumstances of the pupil are similar or analogous to the exceptions permitted by section 120.075, whether attending school in the district of residence creates a particular hardship for the pupil; or

(b) if the pupil has been continuously enrolled for at least two years in a district of which the pupil was not a resident because of an error made in good faith about the actual district of residence, whether attending school in the district of residence creates a particular hardship for the pupil. If the board finds that a good faith error was made and that attending school in the district of residence would create a particular hardship for the siblings of that pupil or foster children of that pupil's parents, it may separately approve an application for any or all of the siblings of the pupil who are related by blood, adoption, or marriage and for foster children of the pupil's parents.

[For text of subs 4 and 5, see M.S.1982]

History: 1983 c 314 art 7 s 4

120.17 HANDICAPPED CHILDREN.

[For text of subs 1 to 2, see M.S.1982]

Subd. 3. **Rules of the state board.** The state board shall promulgate rules relative to qualifications of essential personnel, courses of study or training, methods of instruction and training, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation and any other rules and standards it deems necessary, for instruction of handicapped children. These rules shall provide standards and procedures appropriate for the implementation of and within the limitations of subdivisions 3a and 3b. These rules shall also provide standards for the discipline, control, management and protection of handicapped children. The state board shall, according to section 14.05, subdivision 4, notify a district applying for a variance from the rules within 45 calendar days of receiving the request whether the request for the variance has been granted or denied. If a request is denied, the board shall specify the program standards used to evaluate the request and the reasons for denying the request.

[For text of subd 3a, see M.S.1982]

Subd. 3b. **Procedures for decisions.** Every district shall utilize at least the following procedures for decisions involving identification, assessment and educational placement of handicapped children:

(a) Parents and guardians shall receive prior written notice of:

(1) any proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) a proposed placement of their child in, transfer from or to, or denial of placement in a special education program; or

(3) the proposed provision, addition, denial or removal of special education services for their child;

(b) The district shall not proceed with the initial formal assessment of a child, the initial placement of a child in a special education program or the initial provision of special education services for a child without the prior written consent of the child's parent or guardian. The refusal of a parent or guardian to consent may be overridden by the decision in a hearing held pursuant to clause (d) at the district's initiative after at least one attempt to obtain this consent through a conciliation conference held pursuant to clause (c);

(c) Parents and guardians shall have an opportunity to meet with appropriate district staff in at least one conciliation conference if they object to any proposal of which they are notified pursuant to clause (a);

(d) Parents, guardians and the district shall have an opportunity to obtain an impartial due process hearing initiated and conducted in the school district where the child resides, if after at least one conciliation conference the parent or guardian continues to object to:

(1) a proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) the proposed placement of their child in, or transfer of their child to a special education program;

(3) the proposed denial of placement of their child in a special education program or the transfer of their child from a special education program;

(4) the proposed provision or addition of special education services for their child; or

(5) the proposed denial or removal of special education services for their child.

At least five calendar days before the hearing, the objecting party shall provide the other party with a brief written statement of the objection and the reasons for the objection.

The hearing shall take place before an impartial hearing officer mutually agreed to by the school board and the parent or guardian. If the school board and the parent or guardian are unable to agree on a hearing officer, the school board shall request the commissioner to appoint a hearing officer. The hearing officer shall not be a school board member or employee of the school district where the child resides or of the child's school district of residence, an employee of any other public agency involved in the education or care of the child, or any person with a personal or professional interest which would conflict with his objectivity at the hearing. A person who otherwise qualifies as a hearing officer is not an employee of the district solely because the person is paid by the district to serve as a hearing officer. If the hearing officer requests an independent educational assessment of a child, the cost of the assessment shall be at district expense.

The proceedings shall be recorded and preserved, at the expense of the school district, pending ultimate disposition of the action.

(e) The decision of the hearing officer pursuant to clause (d) shall be rendered not more than 45 calendar days from the date of the receipt of the request for the hearing. A hearing officer may grant specific extensions of time beyond the 45-day period at the request of either party. The decision of the hearing officer shall be binding on all parties unless appealed to the commissioner by the parent, guardian, or the school board of the district where the child resides pursuant to clause (f).

The local decision shall:

(1) be in writing;

(2) state the controlling facts upon which the decision is made in sufficient detail to apprise the parties and the commissioner of the basis and reason for the decision;

(3) state whether the special education program or special education services appropriate to the child's needs can be reasonably provided within the resources available to the responsible district or districts;

(4) state the amount and source of any additional district expenditure necessary to implement the decision; and

(5) be based on the standards set forth in subdivision 3a and the rules of the state board.

(f) Any local decision issued pursuant to clauses (d) and (e) may be appealed to the commissioner within 15 calendar days of receipt of that written decision, by the parent, guardian, or the school board of the district where the child resides.

If the decision is appealed, a written transcript of the hearing shall be made by the school district and shall be accessible to the parties involved within five calendar days of the filing of the appeal. The commissioner shall issue a final decision based on an impartial review of the local decision and the entire record within 30 calendar days after the filing of the appeal. The commissioner shall seek additional evidence if necessary and may afford the parties an opportunity for written or oral argument; provided any hearing held to seek additional evidence shall be an impartial due process hearing but shall be deemed not to be a contested case hearing for purposes of chapter 14. The commissioner may grant specific extensions of time beyond the 30-day period at the request of any party.

The final decision shall:

(1) be in writing;

(2) include findings and conclusions; and

(3) be based upon the standards set forth in subdivision 3a and in the rules of the state board.

(g) The decision of the commissioner shall be final unless appealed by the parent or guardian or school board to the court of appeals. The judicial review shall be in accordance with chapter 14.

(h) Pending the completion of proceedings pursuant to this subdivision, unless the district and the parent or guardian of the child agree otherwise, the child shall remain in his current educational placement and shall not be denied initial admission to school.

(i) The child's school district of residence, if different from the district where the child actually resides, shall receive notice of and may be a party to any hearings or appeals pursuant to this subdivision.

[For text of subs 4 to 7, see M.S.1982]

Subd. 7a. **Attendance at school for the handicapped.** Responsibility for special instruction and services for a visually disabled or hearing impaired child attending the Minnesota School for the Deaf or the Minnesota Braille and Sight-Saving School shall be determined in the following manner:

(a) The legal residence of the child shall be the school district in which his parent or guardian resides.

(b) When it is determined pursuant to section 128A.05, subdivisions 1 or 2 that the child is entitled to attend either school, the state board shall provide the appropriate educational program for the child. The state board shall make a tuition charge to the child's district of residence for the actual cost of providing the program; provided, however, that effective for the 1983-1984 school year and thereafter, the amount of tuition charged shall not exceed the sum of \$1,000 plus the foundation aid formula allowance of the district for that child, for an entire school year, or a prorated amount based on the portion of the school year for which the child is a resident of the district or is actually in membership in the program. For purposes of this subdivision, "foundation aid formula allowance" shall have the meaning attributed to it in section 124.32, subdivision 1a. The district of the child's residence shall pay the tuition and may claim foundation aid for the child. The district of the child's residence shall not receive aid pursuant to section 124.32, subdivision 5, for tuition paid pursuant to this subdivision. All tuition received by the state board shall be deposited in the state treasury.

(c) When it is determined that the child can benefit from public school enrollment but that the child should also remain in attendance at the applicable school, the school district where the institution is located shall provide an appropriate educational program for the child and shall make a tuition charge to the state board for the actual cost of providing the program, less any amount of aid received pursuant to section 124.32. The state board shall pay the tuition and other program costs including the unreimbursed transportation costs. Aids for handicapped children shall be paid to the district providing the special instruction and services. Special transportation shall be provided by the district providing the educational program and the state shall reimburse such district within the limits provided by law.

(d) Notwithstanding the provisions of clauses (b) and (c), the state board may agree to make a tuition charge for less than the amount specified in clause (b) for pupils attending the applicable school who are residents of the district where the institution is located and who do not board at the institution, if that district agrees to make a tuition charge to the state board for less than the amount specified in clause (c) for providing appropriate educational programs to pupils attending the applicable school.

(e) Notwithstanding the provisions of clauses (b) and (c), the state board may agree to supply staff from the Minnesota School for the Deaf and the Minnesota Braille and Sight-Saving School to participate in the programs provided by the district where the institutions are located when the programs are provided to students in attendance at the state schools.

[For text of subds 8a to 11, see M.S.1982]

History: 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 3 s 1

120.182 SPECIAL EDUCATION DIRECTOR.

The authority for the selection and employment of the director of a special education cooperative established pursuant to section 120.17 or 471.59 shall be

vested in the governing board of the cooperative. Notwithstanding the provisions of section 125.12, subdivision 6a or 6b, no individual shall have a right to employment as a director based on seniority or order of employment by the cooperative.

History: 1983 c 314 art 7 s 5

120.80 EARLY GRADUATION.

Subdivision 1. Notwithstanding any law to the contrary, any secondary school student who has completed all required courses may, with the approval of the student, his parent or guardian, and local school officials, graduate prior to the completion of the school year. All aid which such student, had he not graduated, would have earned for the district pursuant to sections 124.2121 to 124.2128, plus that portion of the amount raised by the local tax levy which results from such transitional year students shall continue to be earned by the district.

[For text of subd 2, see M.S.1982]

History: 1983 c 216 art 1 s 24

120.801 MINNESOTA EDUCATIONAL COMPUTING CONSORTIUM, PURPOSE.

The legislature recognizes that computers are becoming a major factor in the operation of educational institutions, both in cost and in importance as an instructional tool. Furthermore, the legislature has continually supported the development of curricula for Minnesota educational institutions that include educational computing materials. While it is important that educational institutions be able to join together to gain economies in purchasing power, it is equally important that computer software and documentation be created, and instructional and administrative computing services be provided to meet the educational needs of Minnesota educational institutions. The purpose of the Minnesota educational computing consortium is to meet these needs.

History: 1983 c 258 s 14

120.802 DEFINITIONS.

Subdivision 1. For the purpose of sections 120.801 to 120.806 the words defined in this section have the meanings given them.

Subd. 2. "Consortium" means the Minnesota educational computing consortium originally created pursuant to Minnesota Statutes, section 471.59.

Subd. 3. "Minnesota educational institutions" means Minnesota school districts or combination of school districts, area vocational technical institutions, the state department of education, community colleges, state universities, and the University of Minnesota.

History: 1983 c 258 s 15

120.803 STAFF.

Subdivision 1. The consortium board shall appoint and set the salary of an executive director of the consortium. The executive director may employ other staff.

Subd. 2. **Personnel management.** The executive director shall establish personnel policies and procedures, including the compensation of other staff.

Subd. 3. **Application of other law.** The consortium is exempt from the application of chapters 14, 16, 16A, except 16A.095 and 16A.10, 43A, and 179.

Notwithstanding chapter 13, the consortium shall not be required to disclose any copyrighted material. Consortium employees may participate in the Minnesota state retirement system and the teachers' retirement system. The commissioner of administration shall provide administrative services if requested by the consortium, and the consortium shall reimburse the commissioner for services provided. The consortium is empowered to purchase or lease real estate necessary for the consortium's operations but in no event shall the consortium rely upon the full faith and credit of the state of Minnesota.

History: 1983 c 258 s 16

120.804 DUTIES OF CONSORTIUM.

Subdivision 1. **Products.** Notwithstanding any law to the contrary, the consortium shall provide its services and products at cost, including overhead, to Minnesota educational institutions.

Subd. 2. **Services to others.** The consortium may provide its products and services for educational purposes to other than Minnesota educational institutions. To further the public purpose expressed in section 120.801, the consortium shall establish a differential pricing policy between sales to Minnesota educational institutions and sales to others.

History: 1983 c 258 s 17

120.805 POWERS.

The consortium may:

- (a) develop computer software and documentation for use by educational institutions;
- (b) train educators in the use of computing;
- (c) research and develop innovative uses of instructional and management computing for education; and
- (d) contract with educational institutions for the development of software, documentation, and instructional and management computing services and charge for the cost of the development or services.

History: 1983 c 258 s 18

120.806 MINNESOTA EDUCATIONAL INSTITUTIONS; POWERS.

All Minnesota educational institutions are authorized to designate the consortium as their purchasing agent for computer hardware, software, and development of software. Minnesota educational institutions are authorized, notwithstanding the requirements of sections 16.07, 471.345, or 123.37, to contract directly with the consortium for the development of computer programs and documentation and for instructional and management computing services for educational institutions.

History: 1983 c 258 s 19

120.81 MINNESOTA EDUCATIONAL COMPUTING CONSORTIUM, RECEIPTS.

The consortium is authorized to maintain a revolving fund for all receipts derived from computer services provided by the consortium. The Minnesota educational computing consortium shall charge users of consortium services and products. Receipts shall be deposited in the Minnesota educational computing consortium revolving fund and are appropriated to the consortium.

History: 1983 c 258 s 21

120.82 [Repealed, 1983 c 258 s 72]